



5-5-05

Attorney's Docket No.: 16596-006003

JPW
\$

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Bradley G. Thompson and
Matthew C. CoffeyArt Unit : 1648
Examiner : Unknown

Serial No. : 10/734,552

Filed : December 11, 2003

Title : METHOD OF PRODUCING INFECTIOUS REOVIRUS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450TERMINAL DISCLAIMER UNDER 37 CFR §§3.73(b) AND 1.321(b)

Pursuant to 37 CFR §3.73(b), ONCOLYTICS BIOTECH INC., a corporation, certifies that it is the assignee of the entire right, title, and interest in the above application by virtue of:

☒ An assignment from the inventors of the patent application identified above. The assignment was recorded in the Patent and Trademark Office at Reel 012608, Frame 0212 on February 22, 2002.

The undersigned (whose title is supplied below) is empowered to act on behalf of the assignee.

Pursuant to 37 CFR §1.321(b), and to obviate a double patenting rejection, the assignee identified above hereby waives and disclaims the terminal portion of the term of the entire patent to be granted upon the above identified application subsequent to the expiration date of U.S. Patent No. 6,528,305, whereby the patent granted on this application and U.S. Patent No. 6,528,305 will expire on the same day, provided that any patent granted on the above identified application shall be enforceable only for and during such period that it is commonly owned with U.S. Patent No. 6,528,305.

The assignee identified above does not disclaim any terminal part of any patent granted on the above identified application prior to the expiration date of the full statutory term of U.S. Patent No. 6,528,305 in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR §1.321(a), has all claims cancelled by a reexamination certificate, or is otherwise

05/06/2005 JBALINAN 00000056 10734552

01 FC:2814

65.00 0P

CERTIFICATE OF MAILING BY EXPRESS MAIL

Express Mail Label No. EV 321384525 USMay 3, 2005

Date of Deposit

Applicant : Bradley G. Thompson and Matthew C.
Coffey
Serial No. : 10/734,552
Filed : December 11, 2003
Page : 2 of 2

Attorney's Docket No.: 16596-006003

terminated prior to expiration of its statutory term, except for the separation of legal title as stated above. Assignee herein does not disclaim or otherwise affect any part of U.S. Patent No. 6,528,305.

This disclaimer runs with any patent granted on the above application and is binding upon the grantee, its successors or assigns.

Enclosed is a check for \$65 for the required fee pursuant to 37 CFR §1.20(d).

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

ONCOLYTICS BIOTECH INC.

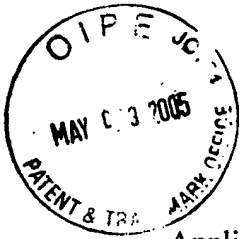
Date: April 18 2005



MATTHEW C. COFFEY, PH.D.

Title: Vice President, Product Development

Fish & Richardson P.C.
500 Arguello Street, Suite 500
Redwood City, California 94063
Telephone: (650) 839-5070
Facsimile: (650) 839-5071



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Bradley G. Thompson and
Matthew C. Coffey
Serial No. : 10/734,552
Filed : December 11, 2003
Title : METHOD OF PRODUCING INFECTIOUS REOVIRUS
Art Unit : 1648
Examiner : Li, Bao Q.

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY TO ACTION OF FEBRUARY 24, 2005

This Reply to Office Action is submitted in response to the Office Action mailed February 24, 2005, for the above-referenced application. The Examiner set a three month period for response. This response is being filed on or before its current due date of May 24, 2005.

CERTIFICATE OF MAILING BY EXPRESS MAIL

Express Mail Label No. EV 321384525 US

May 3, 2005
Date of Deposit

Applicant : Bradley G. Thompson and Matthew C.
Coffey
Serial No. : 10/734,552
Filed : December 11, 2003
Page : 2 of 3

Attorney's Docket No.: 16596-006003

REMARKS

It is respectfully requested that this application be reconsidered in view of the following remarks and that all of the claims remaining be allowed.

Rejection for Obviousness-type Double Patenting

Claims 27-35 stand rejected under the judicially created doctrine of obviousness-type double patenting over claims 1-9, 14-15, 18, and 20 of U.S. Patent No. 6,528,305, in view of Keirstead et al. ("Absence of superinfection exclusion during asynchronous reovirus infections of mouse, monkey, and human cell lines", Virus Research 1998, 54:225-235).

An appropriate Terminal Disclaimer in compliance with 37 CFR §1.321(c), and the fee required under 37 CFR §1.20(d), are submitted herewith to expedite allowance of this application. Accordingly, withdrawal of this rejection is requested.

Conclusion:

For the reasons set forth above, Applicants submit that the claims of this application are patentable. Reconsideration and withdrawal of the Examiner's rejection is hereby requested. Allowance of the claims remaining in this application is earnestly solicited.

Applicant : Bradley G. Thompson and Matthew C.
Coffey
Serial No. : 10/734,552
Filed : December 11, 2003
Page : 3 of 3

Attorney's Docket No.: 16596-006003

In the event that a telephone conversation could expedite the prosecution of this application, the Examiner is requested to call the undersigned's supervisor, Ping F. Hwung, at (650) 839-5044.

Enclosed is a \$65 check for Terminal Disclaimer fees. Please apply any other charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: May 3, 2005

Steven G. Bacs

Steven G. Bacs
Reg. No. 50,736

Fish & Richardson P.C.
500 Arguello Street, Suite 500
Redwood City, California 94063
Telephone: (650) 839-5070
Facsimile: (650) 839-5071